## In the United States District Court For the Southern District of Georgia Brunswick Division

VERNARD JERICHO PEARSEY,

v.

Movant, \* CIVIL ACTION NO.: 2:18-cv-151

UNITED STATES OF AMERICA, \* (Case No.: 2:16-cr-5)

Respondent.

## ORDER

After an independent and de novo review of the entire record, the Court concurs with the Magistrate Judge's Report and Recommendation. Dkt. No. 18. Movant Vernard Pearsey ("Pearsey") filed Objections to this Report and Recommendation, as well as a Motion for Extension of Time to File Objections.

Dkt. Nos. 19, 20. The Court GRANTS Pearsey's Motion and deems his Objections timely filed.

In his Objections, Pearsey contends the Magistrate Judge improperly analyzed his claim that his Georgia burglary conviction cannot serve as a predicate offense for purposes of the Armed Career Criminal Act ("ACCA"). Dkt. 19 at 4. The Magistrate Judge determined Pearsey's claims relating to an ACCA enhancement for his Georgia burglary conviction was not allowable in a 28 U.S.C. § 2255 Motion because Pearsey raised

this issue on appeal, and the Eleventh Circuit Court of Appeals had already rejected his arguments. Dkt. No. 18 at 5-6. In addition, the Magistrate Judge determined Pearsey could not assert a successful ineffective assistance of counsel claim against his trial attorney, as Pearsey's counsel raised this issue—in light of both Mathis v. United States, 136 S. Ct. 2243 (2016), and United States v. Gundy, 842 F.3d 1156 (11th Cir. 2016)—but was unsuccessful. Id. at 10-14. Pearsey has not shown any flaw in this analysis or demonstrated the Court should reach a different conclusion.

Pearsey's Objections are without merit, and the Court

OVERRULES his Objections. Accordingly, the Court ADOPTS the

Magistrate Judge's Report and Recommendation as the opinion of
the Court, GRANTS Respondent's Motion to Dismiss, and DENIES in
part and DISMISSES in part Pearsey's 28 U.S.C. § 2255 Motion to

Vacate, Set Aside, or Correct his Sentence. The Court also

DIRECTS the Clerk of Court to CLOSE this case and enter the
appropriate judgment of dismissal and DENIES Pearsey a

Certificate of Appealability and in forma pauperis status on
appeal.

so ordered, this \_\_\_\_ day of \_\_\_\_\_\_, 2021.

HON. LISA GODBEY WOOD, JUDGE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF GEORGIA